

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GOOD TECHNOLOGY CORPORATION and)
GOOD TECHNOLOGY SOFTWARE, INC.,)
Plaintiffs,)
v.)
MOBILEIRON, INC.,)
Defendant.)

Case No. 5:12-cv-05826-PSG

**OMNIBUS ORDER RE: MOTIONS
TO SEAL****(Re: Docket Nos. 219, 224, 226, 230, 234,
236)**

Before the court are six administrative motions to seal documents. “Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’”¹ Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.”² Parties seeking to seal judicial records relating to dispositive motions bear the burden of overcoming the presumption with “compelling reasons” that outweigh the general history of access and the public policies favoring disclosure.³

¹ *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n. 7 (1978)).

² *Id.* (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

³ *Id.* at 1178-79.

1 However, “while protecting the public’s interest in access to the courts, we must remain
 2 mindful of the parties’ right to access those same courts upon terms which will not unduly harm
 3 their competitive interest.”⁴ Records attached to nondispositive motions therefore are not subject
 4 to the strong presumption of access.⁵ Because the documents attached to nondispositive motions
 5 “are often unrelated, or only tangentially related, to the underlying cause of action,” parties moving
 6 to seal must meet the lower “good cause” standard of Rule 26(c).⁶ As with dispositive motions, the
 7 standard applicable to nondispositive motions requires a “particularized showing”⁷ that “specific
 8 prejudice or harm will result” if the information is disclosed.⁸ “Broad allegations of harm,
 9 unsubstantiated by specific examples of articulated reasoning” will not suffice.⁹ A protective order
 10 sealing the documents during discovery may reflect the court’s previous determination that good
 11 cause exists to keep the documents sealed,¹⁰ but a blanket protective order that allows the parties to
 12 designate confidential documents does not provide sufficient judicial scrutiny to determine whether
 13 each particular document should remain sealed.¹¹

14
 15 In addition to making particularized showings of good cause, parties moving to seal
 16 documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to
 17 Civ. L.R. 79-5(b), a sealing order is appropriate only upon a request that establishes the document
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19 ⁴ *Apple Inc. v. Samsung Electronics Co., Ltd.*, 727 F.3d 1214, 1228-29 (Fed. Cir. 2013).

20 ⁵ *See id.* at 1180.

21 ⁶ *Id.* at 1179 (internal quotations and citations omitted).

22 ⁷ *Id.*

23 ⁸ *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002);
 24 *see Fed. R. Civ. P. 26(c).*

25 ⁹ *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

26 ¹⁰ *See Kamakana*, 447 F.3d at 1179-80.

27 ¹¹ *See Civ. L.R. 79-5(d)(1)(A)* (“Reference to a stipulation or protective order that allows a party to
 28 designate certain documents as confidential is not sufficient to establish that a document, or
 portions thereof, are sealable.”).

is “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Civil L.R. 79-5(d).”¹² “Within 4 days of the filing of the Administrative Motion to File Under Seal, the Designating Party must file a declaration as required by subsection 79-5(d)(1)(A) establishing that all of the designated material is sealable.”¹³

With these standards in mind, the court rules on the instant motions as follows:

<u>Motion to Seal</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reason/Explanation</u>
219	Declaration of Earl Sacerdoti	Text at Docket No. 219-6 at 1:8-6:4 SEALED; all other text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
219	Declaration of Stephen Gray	Text at Docket No. 219-8 at 1:9-3:2 and 4:23-7:7 SEALED; all other text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
219	Declaration of Jesse Lindeman	SEALED	Narrowly tailored to confidential business information.
219	Exhibit 3 to the Declaration of Vickie Feeman	UNSEALED	Not narrowly tailored to confidential business information.
219	Exhibit 4 to the Declaration of Vickie Feeman	SEALED	Narrowly tailored to confidential business information.
219	Exhibit 9 to the Declaration of Vickie Feeman	SEALED	Narrowly tailored to confidential business information.
219	Exhibit 11 to the Declaration of Vickie	UNSEALED	No declaration in support filed with the

¹² Civ. L.R. 79-5(b). In part, Civ. L.R. 79-5(d) requires the submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable material” which “lists in table format each document or portion thereof that is sought to be sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by highlighting or other clear method, the portions of the document that have been omitted from the redacted version.” Civ. L.R. 79-5(d)(1)(d).

¹³ Civ. L.R. 79-5(e)(1).

	Feeman		court as required by Civ. L.R. 79-5(e)(1).
219	Exhibit 12 to the Declaration of Vickie Feeman	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
219	Exhibit 13 to the Declaration of Vickie Feeman	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
219	Exhibit 15 to the Declaration of Vickie Feeman	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
219	Exhibit 16 to the Declaration of Vickie Feeman	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
219	Exhibit 17 to the Declaration of Vickie Feeman	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
219	Exhibit 18 to the Declaration of Vickie Feeman	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
219	Exhibit 21 to the Declaration of Vickie Feeman	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
219	Exhibit 28 to the Declaration of Vickie Feeman	SEALED	Narrowly tailored to confidential business information.
219	Exhibit 29 to the Declaration of Vickie Feeman	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
219	Exhibit 33 to the Declaration of Vickie Feeman	UNSEALED	Not narrowly tailored to confidential business information.
219	Exhibit 36 to the Declaration of Vickie	SEALED	Narrowly tailored to attorney work

	Feeman		product and confidential business information.
219	Exhibit 37 to the Declaration of Vickie Feeman	SEALED	Narrowly tailored to attorney work product and confidential business information.
219	Exhibit 38 to the Declaration of Vickie Feeman	SEALED	Narrowly tailored to attorney work product and confidential business information.
219	Exhibit 39 to the Declaration of Vickie Feeman	SEALED	Narrowly tailored to attorney work product and confidential business information.
219	Exhibit 40 to the Declaration of Vickie Feeman	SEALED	Narrowly tailored to attorney work product and confidential business information.
219	MobileIron's Motion for Summary Judgment of Non-Infringement and Invalidity of Plaintiffs' Patents	Designations in yellow at Docket No. 219-5 SEALED, except designations in yellow at 5:25-26, 12:18, 13:17-18, 16:9-11, 30:11-13 and 46:10-12 UNSEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
224	Exhibit B to the Declaration Joel Stonedale	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).
224	Good's Reply in Support of its Motion to Strike Portions of Defendant's Expert Reports	UNSEALED	Not narrowly tailored to confidential business information. <i>See</i> Civ. L.R. 79-5(d)(1)(A).
226	Exhibit 2 to the Declaration of Lillian J. Mao	SEALED	Narrowly tailored to confidential business information.
226	Exhibit 3 to the Declaration	SEALED	Narrowly tailored to confidential business

	of Lillian J. Mao		information.
226	Exhibit 5 to the Declaration of Lillian J. Mao	SEALED	Narrowly tailored to confidential business information.
226	Exhibit 6 to the Declaration of Lillian J. Mao	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
226	Exhibit 8 to the Declaration of Lillian J. Mao	SEALED	Narrowly tailored to confidential business information.
226	Declaration of Peter J. Reiher, Ph.D.	Designations in yellow at Docket No. 226-6 at ¶¶ 107-8 SEALED; all other designations UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
226	MobileIron's Opposition to Plaintiffs' Motion for Summary Judgment of Non-Infringement and Non-Validity of MobileIron's '016 Patent	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
230	Joint Discovery Letter Brief	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
230	Exhibit A to the Declaration of Glen Liu	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
230	Exhibit B to the Declaration of Glen Liu	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
230	Exhibit 1 to the Declaration of Glen Liu	UNSEALED	No declaration in support filed with the court as required by Civ. L.R. 79-5(e)(1).
234	Exhibit 3 to the Declaration of Robert J. Muller	UNSEALED	Not narrowly tailored to confidential business information.
234	Exhibit 4 to the Declaration of Robert J. Muller	SEALED	Narrowly tailored to confidential business

			information.
234	Exhibit 5 to the Declaration of Robert J. Muller	Text at Docket No. 234-8 at 9:21-26 SEALED; all other text UNSEALED	Only sealed portions narrowly tailored to confidential business information.
234	Exhibit 6 to the Declaration of Robert J. Muller	SEALED	Narrowly tailored to confidential business information.
234	Exhibit 7 to the Declaration of Robert J. Muller	Text at Docket No. 234-10 at 8:21-23 SEALED; all other text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
234	Exhibit 8 to the Declaration of Robert J. Muller	SEALED	Narrowly tailored to confidential business information.
234	Exhibit 9 to the Declaration of Robert J. Muller	Text at Docket No. 234-12 at 6:22-7:8 SEALED; all other text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
234	Exhibit 10 to the Declaration of Robert J. Muller	SEALED	Narrowly tailored to confidential business information.
234	Exhibit 11 to the Declaration of Robert J. Muller	SEALED	Narrowly tailored to confidential business information.
234	Exhibit 12 to the Declaration of Robert J. Muller	SEALED	Narrowly tailored to confidential business information.
234	Good's Opposition to Defendant MobileIron's Motion for Summary Judgment on Lanham Act and Unfair Competition Claims	Text at Docket No. 234-5 at 4:5-6, 4:11-16 and 5:17-18 SEALED; all other text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
236	Exhibit 2 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
236	Exhibit 3 to the Declaration of Craig Tolliver	UNSEALED	Not narrowly tailored to confidential business information. See Civ. L.R. 79-5(d)(1)(A).

1	236	Exhibit 4 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
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3	236	Exhibit 5 to the Declaration of Craig Tolliver	Text at Docket No. 236-8 at ¶ 37 sentences 4, 7, 9 and footnote 45; ¶ 38, sentences 4 and 5; ¶ 69 (excerpt); ¶ 70; ¶ 71, sentences 4, 5, 6, and 7; ¶ 73, sentence 1; and ¶ 113 SEALED; all other text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
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7	236	Exhibit 6 to the Declaration of Craig Tolliver	Text at Docket No. 236-9 at ¶¶ 76-83 and ¶¶ 224-226 and accompanying diagrams SEALED; all other text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
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10	236	Exhibit 7 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
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12	236	Exhibit 12 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
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14	236	Exhibit 13 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
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17	236	Exhibit 14 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
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19	236	Exhibit 15 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
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21	236	Exhibit 16 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
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23	236	Exhibit 17 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
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25	236	Exhibit 18 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
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27	236	Exhibit 19 to the	Text at Docket No. 236-18 at ¶	Only sealed portions
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	Declaration of Craig Tolliver	74 SEALED; all other text UNSEALED.	narrowly tailored to confidential business information.
236	Exhibit 22 to the Declaration of Craig Tolliver	SEALED	Narrowly tailored to confidential business information.
236	Plaintiffs' Opposition to MobileIron's Motion for Summary Judgment of No Lost Profits	Designations in yellow at Docket No. 236-4 at 3:5-6, 4:8-9, 8:9, 8:19-21, 12:1-4, 17:4 and text at 2:13-14, 3:5-6, 12:13-16, 13:28, 14:1, 14:6-15, 17:19-24 and 18:1 SEALED; all other designations and text UNSEALED.	Only sealed portions narrowly tailored to confidential business information.

SO ORDERED.

Dated: April 15, 2015



PAUL S. GREWAL

United States Magistrate Judge